Document electronically

generated from the

United Nations

Optical Disk System

ISBA/C/WP.1
7 July 1995

ORIGINAL: ENGLISH

INTERNATIONAL SEABED AUTHORITY
Kingston, Jamaica

DRAFT RULES OF PROCEDURE OF THE COUNCIL OF THE INTERNATIONAL SEABED AUTHORITY

Introductory note

The present paper is prepared in response to a request made at the second part of the first session of the Assembly to facilitate the discussions in the Council, following its establishment, of its draft rules of procedure. The Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea had recommended that the draft rules of procedure contained in document LOS/PCN/WP.26/Rev.3 be considered by the Council. In the light of the adoption by the General Assembly on 28 July 1994 of the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea, the Secretariat has prepared suggestions for revising the draft rules of procedure of the Council, recommended by the Preparatory Commission, taking into account the relevant provisions of the Agreement. In preparing these suggestions the Secretariat has been guided by the approach adopted by the Assembly when it discussed its rules of procedure. Most of the relevant draft rules have been redrafted but in a few cases attention is drawn only to the need for revision. Suggestions of the Secretariat have been inserted, where appropriate, following the relevant article or articles of the draft rules of procedure prepared by the Preparatory Commission and have been reproduced within square brackets.

Suggestion by the Secretariat

The rules of procedure of the Assembly contain an important introductory note. It provides that since, in accordance with the 1994 Agreement, its provisions and Part XI of the United Nations Convention on the Law of the Sea are to be interpreted and applied together as a single instrument, the rules of procedure of the Assembly and references in the present rules to the Convention are to be interpreted and applied accordingly. The Council therefore may wish to consider including a similar introductory note at the beginning of its rules of procedure which would read as follows:

[On 28 July 1994 the General Assembly of the United Nations adopted the Agreement relating to the implementation of Part XI of the United Nations Convention on the Law of the Sea, and the Agreement has been provisionally applied since 16 November 1994.

According to the Agreement, its provisions and Part XI of the Convention are to be interpreted and applied together as a single instrument; the present rules and references in these rules to the Convention are to be interpreted and applied accordingly.]

I. SESSIONS

Regular sessions

Rule 1* (1) 1/, 2/

Frequency of sessions

The Council shall meet in three regular sessions annually.

Suggestion by the Secretariat

In the light of the provisions of section 1, paragraph 2, of the Annex to the 1994 Agreement, which provides that the principle of cost-effectiveness shall also apply to the frequency of meetings of all organs of the Authority, the Council may wish to review this rule in order to bring it into conformity with this principle.

Rule 2* (2)

Date of commencement and duration

Before the end of each session the Council shall decide on the date of commencement and the approximate duration of the next session.

Rule 3* (4)

Notification of members

The Secretary-General shall notify the members of the Council as early as possible but at least thirty days in advance of the opening of a regular session. On the same date he shall notify other members of the Authority.

1/ Rules with an asterisk have been provisionally adopted.

2/ The number in parentheses indicates the number of the rule in document LOS/PCN/WP.26/Rev.1.

Rule 4* (3)

Alteration of the date of a regular session

1. Any member of the Council or the Secretary-General may request an alteration of the date of a regular session.

2. A request coming from a member of the Council shall be submitted to the Secretary-General at least forty-five days before the date originally scheduled and thirty days before the proposed new date. The Secretary-General shall immediately communicate the request to the members of the Council, together with all appropriate observations, including, if any, a statement on financial implications.

3. A request coming from the Secretary-General shall be subject to the same conditions.

4. If, within fifteen days of the request, a majority of the members of the Council concurs, the Secretary-General shall convene the session of the Council on the date indicated in the request.

Rule 5* (5)

Convening of special sessions

When the urgent business of the Authority so requires, special sessions of the Council shall be held at the request of:

(a) The Assembly ...; 3/

(b) Three fourths of the members of the Council;

(c) The President of the Council, with the concurrence of the Vice-Presidents of the Council and, as appropriate, in consultation with members of the Council;

(d) The Secretary-General.

Suggestion by the Secretariat

As noted above, the Preparatory Commission did not resolve the issue of the majority for the decision by the Assembly. In accordance with section 3, paragraph 3, of the Annex to the 1994 Agreement, decisions of the Assembly on questions of procedure shall be taken by a simple majority and on questions of substance by a two-thirds majority of members present and voting. It appears that the convening of a special session of the Council should be considered a

---

3/ The question of the majority for the decision by the Assembly should be considered when the plenary resumes the examination of the draft rules of procedure of the Assembly.

matter of substance and, therefore, should require a two-thirds majority decision by the Assembly.

Rule 6* (6)

Notification of members

The Secretary-General shall notify the members of the Council as early as possible, but no later than twenty-one days in advance of a special session. On the same date he shall notify other members of the Authority.

Regular and special sessions

Rule 7* (7)

Notification of observers

In accordance with the timetable envisaged in rules 3 and 6, copies of the notice convening each session of the Council shall be addressed to observers referred to in rule 93 of the rules of procedure of the Assembly.

Note by the Secretariat

In this rule cross-reference should be made to rule 82 instead of rule 93 (ISBA/A/6).

Rule 8* (8*)

Temporary adjournment of session

The Council may decide to adjourn any session temporarily and resume it at a later date.

Rule 9* (9*)

Place of meeting

The Council shall meet at the seat of the Authority. 4/

4/ Article 161 (5).

II. AGENDA

Regular sessions

Rule 10* (10)

Drawing up of the provisional agenda

The provisional agenda of a regular session shall include:

(a) Items proposed by the Assembly;

(b) Reports of the Enterprise, reports and proposals of the Economic Planning Commission, the recommendations of the Legal and Technical Commission and reports of the Finance Committee;

(c) Items proposed by the Council;

(d) Items proposed by any member of the Council;

(e) Items proposed by the Secretary-General.

Suggestion by the Secretariat

This rule provides in paragraph 10 (b) that reports of the Enterprise and of the Economic Planning Commission shall be included in the provisional agenda of a regular session of the Council. In accordance with section 1, paragraph 3, of the Annex to the 1994 Agreement, the setting up of the organs of the Authority shall be based on an evolutionary approach. Consequently, the Annex to the Agreement provides that the functions of the Economic Planning Commission shall be performed by the Legal and Technical Commission until such time as the Council decides otherwise, or until the approval of the first plan of work for exploitation (section 1, paragraph 4, of the Annex). Under section 2, paragraph 1, of the Annex to the Agreement, the functions of the Enterprise shall be performed by the Secretariat of the Authority until the Enterprise begins to operate independently of the Secretariat. In view of these provisions of the Annex to the Agreement, the Council may wish to consider to include two footnotes to paragraph 10 (b) containing cross-references to the aforementioned provisions of the Annex to the Agreement.

The first footnote could be similar to footnote 2 of the rules of procedure of the Assembly and read as follows:

"(b) Reports of the Enterprise*...

[According to the Agreement relating to the implementation of Part XI of the United Nations Convention on the Law of the Sea, the Secretariat of the Authority shall perform the functions of the Enterprise until it begins to operate independently of the Secretariat. Upon the approval of a plan of work for exploitation for an entity other than the Enterprise, or upon receipt by the Council of an application for a joint-venture operation with the Enterprise, the Council shall take up the issue of the functioning of the Enterprise

independently of the Secretariat of the Authority. If joint-venture operations with the Enterprise accord with sound commercial principles, the Council shall issue a directive pursuant to article 170, paragraph 2, of the Convention providing for such independent functioning.]

The second footnote could read as follows:

(b) .....reports and proposals of the Economic and Planning Commission*...

[According to the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea, the functions of the Economic Planning Commission shall be performed by the Legal and Technical Commission until such time as the Council decides otherwise or until the approval of the first plan of work for exploitation.]

Rule 11* (11)

Communication of the provisional agenda

The provisional agenda for a regular session shall be drawn up by the Secretary-General and communicated to the members of the Council and to the members and observers of the Authority as early as possible but at least thirty days before the opening of the session. Any subsequent change in or addition to the provisional agenda shall be brought to the notice of the members and observers of the Authority at least ten days before the session.

Suggestion by the Secretariat

At the end of the title of rule 11, add the words "for a regular session".

Special sessions

Rule 12* (12)

Drawing up of the provisional agenda

The provisional agenda for a special session shall consist only of those items proposed for consideration in the request for the holding of the session.

Suggestion by the Secretariat

At the end of the title of rule 12, add the words "for a special session".

Rule 13* (13)

Communication of the provisional agenda

The provisional agenda for a special session shall be communicated to the members of the Council as early as possible, but at least twenty-one days before

the opening of the session. It shall be communicated to other members and observers of the Authority on the same date.

Suggestion by the Secretariat

At the end of the title of rule 13, add the words "for a special session".

Regular and special sessions

Rule 14* (14*)

Adoption of the agenda

At the beginning of each session, the Council shall adopt its agenda for the session on the basis of the provisional agenda. The Council may, however, in urgent circumstances, make additions to the agenda at any time during a session.

Rule 15* (15*)

Allocation of items

The Council may allocate items for its consideration or for consideration by any of its organs or any of its subsidiary organs and may refer items without preliminary debate to:

(a) One or more of its organs or subsidiary organs for examination and report at a subsequent session of the Council;

(b) The Secretary-General for study and report at a subsequent session of the Council; or

(c) The proposer of the item, for further information or documentation.

III. REPRESENTATION AND CREDENTIALS

Rule 16* (16*)

Composition of delegations

Each member of the Council shall be represented at the meetings of the Council by an accredited representative, who may be accompanied by such alternate representatives and advisers as may be required by the delegation.

Rule 17* (17*)

Submission of credentials

The credentials of representatives and the names of alternate representatives and advisers shall be submitted to the Secretary-General not later than twenty-four hours after they take their seats on the Council. The credentials shall be issued either by the Head of State or Government, by the Minister for Foreign Affairs or by another competent authority of the sending member. The Head of State or Government, Minister for Foreign Affairs or any person responsible for foreign affairs of each member of the Council shall be entitled to sit on the Council without submitting credentials.

Suggestion by the Secretariat

The Council may wish to revise this rule so as to bring it into conformity with rule 23 of the rules of procedure of the Assembly. The revised rule 17 would then read as follows:

[The credentials of representatives and the names of alternate representatives and advisers shall be submitted to the Secretary-General if possible not later than twenty-four hours after they take their seats on the Council. The credentials shall be issued either by the Head of State or Government, by the Minister for Foreign Affairs or person authorized by him or, in the case of entities referred to in article 305, paragraph 1 (f), of the United Nations Convention on the Law of the Sea, by another competent authority.]

Rule 18* (18) 5/

Submission of credentials by the members of the Authority not represented on the Council

Any member of the Authority not represented on the Council, attending a meeting of the Council in accordance with rule 72, shall submit credentials for the representative appointed by it for this purpose. The credentials of such a representative shall be communicated to the Secretary-General not less than twenty-four hours before the first meeting which he is invited to attend.

Suggestion by the Secretariat

Under rule 72 members of the Authority that are not members of the Council are not required to obtain an invitation if they wish to attend a meeting of the Council. Rule 72 states that "any member of the Authority not represented on the Council may send a representative to attend a meeting of the Council when a request is made by such member of the Authority, ..." Therefore, it is

---

5/ Although this rule has been provisionally adopted, it should be reviewed when the question of observers is resolved in the rules of procedure of the Assembly.

suggested that the words "is invited" in the last sentence of rule 18 be replaced by "requested".

Rule 19* (19*)

Examination of credentials

The credentials of representatives on the Council and of any representative appointed in accordance with rule 18 shall be examined by the Secretary-General, who shall submit a report to the Council for approval.

Rule 20* (20*)

Provisional admission to the session

Pending the approval of the credentials of a representative on the Council in accordance with rule 19, such representative shall be seated provisionally with the same rights as other representatives.

Rule 21* (21*)

Objection to representation

Any representative on the Council, to whose credentials objection has been made within the Council, shall continue to sit with the same rights as other representatives until the Council has decided the matter.

IV. OFFICERS

Rule 22* (22)

Elections

1. Each year at its first session convened after the end of each regular annual session of the Assembly, the Council shall elect a President and four Vice-Presidents from among its members, so that every regional group is represented by one officer.

2. In the election of the President the principle of rotation between regional groups shall be observed, and every effort shall be made to elect the President without a vote.

3. Vice-Presidents shall be eligible for re-election.

Rule 23* (23)

Term of office

The President and the Vice-Presidents shall, subject to rule 27, hold office until their successors are elected.

Rule 24* (24)

Temporary President

[Deleted]

Rule 25* (25)

Acting President

1. If the President finds it necessary to be absent during a meeting or any part thereof, he shall designate one of the Vice-Presidents to take his place.

2. If the President ceases to hold office pursuant to rule 27, one of the Vice-Presidents shall act in his place until the election of a new President.

Rule 26* (26*)

Powers of the Acting President

A Vice-President acting as President shall have the same powers and duties as the President.

Rule 27* (27)

Replacement of the President or Vice-President

If the President or Vice-President ceases to be able to carry out his functions or ceases to be a representative of a member of the Council, or if a member of which he is a representative ceases to be a member of the Council, he shall cease to hold such office and a new President or Vice-President shall be elected for the unexpired term.

Rule 28* (28*)

Voting of the President and Acting President

The President, or a Vice-President acting as President, shall not vote, but may designate another member of his delegation to vote in his place.

Rule 29* (29*)

Functions of the President

1. The President shall preside over the meetings of the Council and shall represent it in its capacity as the executive organ of the Authority.

2. The President, in the exercise of his functions, remains under the authority of the Council.

V. SECRETARIAT

Rule 30* (30*)

Duties of the Secretary-General

1. The Secretary-General, as the chief administrative officer of the Authority, shall act in that capacity in all meetings of the Council and of its organs and subsidiary organs. He may designate an officer of the Secretariat to act as his representative. He shall discharge such other responsibilities as are assigned to him under part XI of the United Nations Convention on the Law of the Sea.

2. The Secretary-General shall provide and direct, with due regard to the principles of economy and efficiency, the staff required by the Council, its organs and its subsidiary organs.

3. The Secretary-General shall keep the members of the Council informed of any questions which may be of interest to the Council.

Rule 31 (31)

Submission of the annual budget

The Secretary-General shall draft the proposed annual budget of the Authority and submit it to the Council for its consideration. The Council shall consider the proposed annual budget and submit it to the Assembly, together with any recommendations thereon. 6/

Suggestion by the Secretariat

In accordance with section 9, paragraph 7 (d), of the Annex to the 1994 Agreement, decisions by the Council regarding the administrative budget shall take into account recommendations of the Finance Committee. Consequently, recommendations of the Finance Committee should be submitted to the Council before it starts consideration of the administrative budget. In the light of the foregoing it is suggested that in the first sentence the words "together

---

6/ Article 172.

with the recommendations of the Finance Committee" should be inserted before the words "to the Council". In the second sentence the words "taking into account the recommendations of the Finance Committee" should be inserted after the words "annual budget" and the words "its own" should replace the word "any" before "recommendations thereon". A revised rule 31 would then read as follows:

[The Secretary-General shall draft the proposed annual budget of the Authority and submit it together with the recommendations of the Finance Committee to the Council for its consideration. The Council shall consider the proposed annual budget taking into account the recommendations of the Finance Committee and submit it to the Assembly, together with its own recommendations thereon.]

Rule 32* (32*)

Cooperation with international and non-governmental organizations

The Secretary-General shall, on matters within the competence of the Authority, make suitable arrangements, with the approval of the Council, for consultation and cooperation with international and non-governmental organizations recognized by the Economic and Social Council of the United Nations. 7/

Rule 33* (33)

Duties of the Secretariat

1. The Secretariat shall receive, translate, reproduce and distribute documents of the Council and its organs to the members and observers of the Authority; interpret speeches made at the meetings; prepare and circulate the records of the session; have the custody and proper preservation of the documents in the archives of the Authority; and, generally, perform all other work which the Council may require.

2. The Secretary-General may distribute to States Parties written reports submitted by the non-governmental organizations referred to in article 169, paragraph 1, of the United Nations Convention on the Law of the Sea. Such reports submitted by non-governmental organizations within the scope of their competence which are relevant to the work of the Council shall be distributed b the Secretariat in the quantity and in the languages in which the reports are available. 8/

7/ Article 169 (1).

8/ Article 169 (3).

/.

Rule 34 (34)

Estimate of expenditures

1. Before any proposal which involves expenditure from the Authority's funds is approved by the Council, the Secretary-General shall circulate to all members of the Council, as early as possible, a report on the estimated costs involved as well as on administrative and budgetary implications with reference to existing financial authorizations and budgetary appropriations.

2. The Council shall take into account the estimates referred to in paragraph 1 before adopting any proposal involving expenditure from the Authority's funds. If the proposal is adopted, the Council shall indicate, whenever appropriate, the priority or degree of urgency which it attaches to the proposal.

3. [Whenever the Council wishes to recommend, in cases of exceptional urgency, that a proposal involving expenditures for which no financial provision exists be implemented before the next regular session of the Assembly, it shall include a specific indication to that effect to the Secretary-General in the resolution approving the proposal.]

Suggestion by the Secretariat

Section 9, paragraph 7 (e), of the Annex to the 1994 Agreement provides that the Council shall take into account recommendations of the Finance Committee regarding proposals involving expenditure from the funds of the Authority. Therefore, it is suggested that paragraph 3 of rule 34 be deleted and that the first and second paragraphs be revised as follows:

[1. Before any proposal which involves expenditures from the Authority's funds is approved by the Council, the Secretary-General shall prepare, as early as possible, a report on the estimated costs involved as well as on administrative and budgetary implications with reference to existing financial authorizations and budgetary appropriations and submit it to the Finance Committee. After consideration by the Finance Committee, the report shall be circulated to all members of the Council together with the recommendations of the Finance Committee thereon.

2. The Council shall take into account the estimates and recommendations referred to in paragraph 1 before adopting any proposal involving expenditure from the Authority's funds. If the proposal is adopted, the Council shall indicate, whenever appropriate, the priority or degree of urgency which it attaches to the proposal.]

VI. CONDUCT OF BUSINESS

Rule 35* (35*)

Quorum

A majority of the members of the Council shall constitute a quorum.

Rule 36* (36*)

Powers of the President

In addition to exercising the powers conferred upon him elsewhere in these rules or by the United Nations Convention on the Law of the Sea, the President shall declare the opening and closing of each meeting of the Council, direct the discussions, ensure observance of these rules, accord the right to speak, put questions for decisions and announce decisions. He shall rule on points of order and, subject to these rules, shall have complete control of the proceedings of the Council and over the maintenance of order at its meetings. The President may, in the course of discussion of an item, propose to the Council the limitation of time to be allowed to speakers, the limitation of the number of times each representative may speak on any question, the closure of the list of speakers or the closure of the debate, and the suspension or the adjournment of the meeting or of the debate on the question under discussion.

Rule 37* (37*)

Speeches

No representative may address the Council without having previously obtained the permission of the President. The President shall call upon speakers in the order in which they signify their desire to speak. The President may call a speaker to order if his remarks are not relevant to the subject under discussion.

Rule 38* (38*)

Precedence

The Chairman of an organ of the Council, or of a subsidiary organ of the Council, may be accorded precedence in speaking for the purpose of explaining the conclusion arrived at by that organ.

Rule 39* (39*)

Statements by the Secretariat

The Secretary-General, or a member of the Secretariat designated by him as his representative, may at any time make either oral or written statements to the Council concerning any questions under consideration by it.

Rule 40* (40*)

Points of order

During the discussion of any matter, a representative may rise to a point of order, and the point of order shall be immediately decided by the President in accordance with the rules of procedure. A representative may appeal against the ruling of the President. The appeal shall be immediately put to the vote, and the President's ruling shall stand unless overruled by a majority of the members present and voting. A representative rising to a point of order may not speak on the substance of the matter under discussion.

Rule 41* (41*)

Time-limit on speeches

The Council may limit the time to be allowed to each speaker and the number of times each representative may speak on any question. Before a decision is taken, two representatives may speak in favour of, and two against, a proposal to set such limits. When the debate is limited and a representative exceeds his allotted time the President shall call him to order without delay.

Rule 42* (42*)

Closing of list of speakers

During the course of a debate, the President may announce the list of speakers and, with the consent of the Council, declare the list closed. The President may, however, accord the right of reply to any representative if a speech delivered after he has declared the list closed makes this desirable.

Rule 43* (43*)

Adjournment of debate

During the discussion of any matter, a representative may move the adjournment of the debate on the item under discussion. In addition to the proposer of the motion, two representatives may speak in favour of, and two against, the motion, after which the motion shall be immediately put to the

vote. The President may limit the time to be allowed to speakers under this rule.

Rule 44* (44*)

Closure of the debate

A representative may at any time move the closure of the debate on the question under discussion, whether or not any other representative has signified his wish to speak. Permission to speak on the motion shall be accorded only to two representatives of members opposing the closure, after which the motion shall be immediately put to the vote. If the Council is in favour of the closure, the President shall declare the closure of the debate. The President may limit the time to be allowed to speakers under this rule.

Rule 45* (45*)

Suspension or adjournment of the meeting

During the discussion of any matter, a representative may move the suspension or the adjournment of the meeting. Such motions shall not be debated, but shall be immediately put to the vote. The President may limit the time to be allowed to the speaker moving the suspension or adjournment of the meeting.

Rule 46* (46*)

Order of procedural motions

Subject to rule 40, the following motions shall have precedence in the following order over all other proposals or motions before the meeting:

(a) To suspend the meeting;

(b) To adjourn the meeting;

(c) To adjourn the debate on the item under discussion;

(d) To close the debate on the item under discussion.

Rule 47* (47*)

Proposals and amendments

Proposals and amendments shall normally be submitted in writing to the Secretary-General, who shall circulate copies to the representatives. As a general rule, no proposal shall be discussed or put to the vote at any meeting of the Council unless copies of it have been circulated to all representatives

not later than the day preceding the meeting. The President may, however, permit the discussion and consideration of amendments, or of motions as to procedure, even though such amendments and motions have not been circulated or have only been circulated the same day.

Rule 48* (48*)

Decision on competence

Subject to rule 46, any motion calling for a decision on the competence of the Council to adopt a proposal submitted to it shall be put to the vote before a vote is taken on the proposal in question.

Rule 49* (49*)

Withdrawal of proposals and motions

A proposal or a motion may be withdrawn by its proposer at any time before voting on it has commenced, provided that the motion has not been amended. A proposal or a motion thus withdrawn may be reintroduced by another member.

Rule 50* (50*)

Reconsideration of proposals

When a proposal has been adopted or rejected, it may not be reconsidered at the same time unless the Council, by a two-thirds majority of the members present and voting, so decides. Permission to speak on a motion to reconsider shall be accorded only to two speakers opposing the motion, after which it shall be immediately put to the vote.

Suggestion by the Secretariat

In accordance with section 3, paragraph 5, of the Annex to the 1994 Agreement decisions in the Council on questions of substance, except where the Convention provides for decisions by consensus, shall be taken by a two-thirds majority of members present and voting, provided that such decisions are not opposed by a majority in any one of the chambers referred to in paragraph 9 of the same section. Therefore, it is suggested to insert in the first sentence the words "and subject to the requirement referred to in paragraph 2 of article ...(new article on decision-making)" before the words "so decides". A revised text of the first sentence of rule 50 would read as follows:

[When a proposal has been adopted or rejected, it may not be reconsidered at the same time unless the Council, by a two-thirds majority of the members present and voting and subject to the requirement referred to in paragraph 2 of rule ..., so decides.]

VII. DECISION-MAKING 9/

Suggestion by the Secretariat

In the light of the provisions of section 3 of the Annex to the Agreement relating to decision-making in the Council, rules 52 (Decisions on questions of procedure), 53 (Decisions requiring a two-thirds majority), 54 (Decisions requiring a three-fourths majority), 58 (Procedure for reaching a consensus) and 59 (Decisions on questions not listed) should be replaced with a new rule containing provisions of paragraphs 2, 5, 6, 7 and 9 (a) of that section which should read as follows:

> [1. As a general rule, decision-making in the Council should be by consensus.
>
> 2. If all efforts to reach a decision by consensus have been exhausted, decisions by voting in the Council on questions of procedure shall be taken by a majority of members present and voting, and decisions on questions of substance, except where the Convention provides for decisions by consensus in the Council, shall be taken by a two-thirds majority of members present and voting, provided that such decisions are not opposed by a majority in any one of the chambers referred to in rule 84 of the rules of procedure of the Assembly.
>
> 3. The Council may defer the taking of a decision in order to facilitate further negotiation whenever it appears that all efforts at achieving consensus have not been exhausted.
>
> 4. Decisions by the Council having financial or budgetary implications shall be based on the recommendations of the Finance Committee.
>
> 5. Each group of States elected under paragraphs (a) to (d) of rule 84 of the rules of procedure of the Assembly shall be treated as a chamber for the purposes of voting in the Council. The developing States elected under paragraphs (d) and (e) of rule 84 of the rules of procedure of the Assembly shall be treated as a single chamber for the purposes of voting in the Council.]

Rule 51* (51*)

Voting rights

Each member of the Council shall have one vote. 10/

9/ The relevant provisions of the United Nations Convention on the Law of the Sea are embodied in the annex.

10/ Article 161, para. 7.

Rule 52* (52*)

Decisions on questions of procedure

Decisions on questions of procedure shall be taken by a majority of the members of the Council present and voting. 11/

Rule 53 (53)

Decisions requiring a two-thirds majority

Decisions on questions of substance arising under the following provisions of the United Nations Convention on the Law of the Sea shall be taken by a two-thirds majority of the members present and voting, provided that such majority includes a majority of the members of the Council: article 162, paragraph 2, subparagraphs (f), (g), (h), (i), (n), (p) and (v), and article 191. 12/

Rule 54 (54)

Decisions requiring a three-fourths majority

Decisions on questions of substance arising under the following provisions of the United Nations Convention on the Law of the Sea shall be taken by a three-fourths majority of the members present and voting, provided that such majority includes a majority of the members of the Council: article 162, paragraph 1; article 162, paragraph 2, subparagraphs (a), (b), (c), (d), (e), (l), (q), (r), (s), (t) and (u), in cases of non-compliance by a contractor or sponsor; (w), provided that orders issued thereunder may be binding for not more than thirty days unless confirmed by a decision taken in accordance with subparagraph (d); article 162, paragraph 2, subparagraphs (x), (y) and (z); article 163, paragraph 2; article 174, paragraph 3; and annex IV, article 11. 13/

Rule 55* (55*)

Use of terms

1. For the purposes of these rules, the phrase "members present and voting" means members of the Council present and casting an affirmative or negative vote. Members of the Council who abstain from voting shall be considered as not voting.

11/ Article 161, para. 8 (a).

12/ Article 161, para. 8 (b).

13/ Article 161, para. 8 (c).

2. Subject to the provisions of rules 16 and 21, the term "members participating" in relation to any particular session of the Council means any member of the Council whose representatives have registered with the Secretariat as participating in that session and which has not subsequently notified the Secretariat of its withdrawal from that session or part of it. The Secretariat shall keep a register for this purpose.

Rule 56* (56*)

Decisions requiring a consensus

Decisions on questions of substance arising under the following provisions of the United Nations Convention on the Law of the Sea shall be taken by consensus: article 162, paragraph 2 (m) and (o); adoption of amendments to part XI. 14/

Rule 57* (57*)

Use of term "consensus"

For the purposes of these rules, "consensus" means the absence of any formal objection. 15/

Rule 58 (58) 16/

Procedure for reaching a consensus

Within fourteen days of the submission to the Council of a proposal requiring a decision by consensus, the President of the Council shall determine whether there would be a formal objection to the adoption of the proposal. If the President determines that there would be such an objection, the President shall establish and convene, within three days following such determination, a conciliation committee consisting of not more than nine members of the Council, with the President as chairman, for the purpose of reconciling the differences and producing a proposal which can be adopted by consensus. The committee shall work expeditiously and report to the Council within fourteen days following its establishment. If the committee is unable to recommend a proposal which can be adopted by consensus, it shall set out in its report the grounds on which the proposal is being opposed.

14/ Article 161, para. 8 (d).

15/ Article 161, para. 8 (e).

16/ Ibid.

Rule 59* (59*) 17/

Decisions on questions not listed

1. Decisions on questions not listed in rules 52, 53, 54 or 56 which the Council is authorized to take by the rules, regulations and procedures of the Authority or otherwise shall be taken pursuant to the required majority specified in the rules, regulations and procedures or, if not specified therein, then pursuant to the required majority determined by the Council, if possible in advance, by consensus.

2. When the issue arises whether a question is within rules 52, 53, 54 or 56, the question shall be treated as being within the rule requiring the higher or highest majority or consensus as the case may be, unless otherwise decided by the Council by the said majority or by consensus.

Rule 60* (60*)

Method of voting

1. The Council shall, in the absence of mechanical means for voting, vote by show of hands, but a representative of any member of the Council may request a roll-call. The roll-call shall be taken in the English alphabetical order of the names of the members of the Council participating in that session, beginning with the member of the Council whose name is drawn by lot by the President. The name of each member of the Council shall be called in any roll-call, and one of its representatives shall reply "yes" or "no" or "abstention". The result of the voting shall be inserted in the record in the English alphabetical order of the names of the members of the Council.

2. When the Council votes by mechanical means, a non-recorded vote shall replace a vote by show of hands and a recorded vote shall replace a roll-call vote. A representative of any member of the Council may request a recorded vote. In the case of a recorded vote, the Council shall, unless a representative of any member of the Council requests otherwise, dispense with the procedure of calling out the names of the members of the Council; nevertheless, the result of the voting shall be inserted in the record in the same manner as that of a roll-call vote.

Rule 61* (61*)

Conduct during voting

After the President has announced the beginning of voting, no representative of any member of the Council shall interrupt the voting, except that representatives of members of the Council may interrupt on a point of order in connection with the actual conduct of the voting.

17/ Article 161, para. 8 (f) and (g).

Rule 62* (62*)

Explanation of vote

Representatives of members of the Council may make statements consisting solely of explanations of their votes before the voting has commenced or after the voting has been completed. The President may limit the time to be allowed for such statements. The representative of any member of the Council sponsoring a proposal or motion shall not speak in explanation of vote thereon, unless it has been amended.

Rule 63* (63*)

Division of proposals and amendments

A representative of a member of the Council may move that parts of a proposal or of an amendment should be voted on separately. If objection is made to the request for division, the motion for division shall be voted upon. Permission to speak on the motion for division shall be given only to two speakers in favour and to two speakers against. If the motion for division is carried, those parts of the proposal or of the amendment which are approved shall then be put to the vote as a whole. If all operative parts of the proposal or of the amendment have been rejected, the proposal or the amendment shall be considered to have been rejected as a whole.

Rule 64* (64*)

Order of voting on amendments

When an amendment is moved to a proposal, the amendment shall be voted on first. When two or more amendments are moved to a proposal, the Council shall first vote on the amendment furthest removed in substance from the original proposal and then on the amendment next furthest removed therefrom, and so on until all the amendments have been put to the vote. Where, however, the adoption of one amendment necessarily implies the rejection of another amendment, the latter amendment shall not be put to the vote. If one or more amendments are adopted, the amended proposal shall then be voted upon. A motion is considered an amendment to a proposal if it merely adds to, deletes from or revises part of the proposal.

Rule 65* (65*)

Order of voting on proposals

If two or more proposals relate to the same question, the Council shall, unless it decides otherwise, vote on the proposals in the order in which they have been submitted. The Council may, after each vote on a proposal, decide whether to vote on the next proposal.

Rule 66* (66*)

Elections

All elections shall be held by secret ballot unless otherwise decided by the Council.

Rule 67* (67*)

Restricted balloting for one elective place

1. If, when one person or a member of the Council is to be elected, no candidate obtains in the first ballot the votes of a majority of the members of the Council present and voting, a second ballot restricted to the two candidates obtaining the largest number of votes shall be taken. If in the second ballot the votes are equally divided, the President shall decide between the candidates by drawing lots.

2. In the case of a tie in the first ballot among more than two candidates obtaining the largest number of votes, a second ballot shall be held. If on that ballot a tie remains among more than two candidates, the number shall be reduced to two by lot and the balloting, restricted to them, shall continue in accordance with the preceding paragraph.

3. If a majority other than a simple majority is required, the balloting shall be continued until one candidate secures the required majority of the votes cast, provided that, after the third inconclusive ballot, votes may be cast for any eligible person or member of the Council. If three such unrestricted ballots are inconclusive, the next three ballots shall be restricted to the two candidates who obtained the greatest number of votes in the third of the unrestricted ballots, and the following three ballots thereafter shall be unrestricted, and so on until a person or member of the Council is elected.

Rule 68* (68*)

Restricted balloting for two or more elective places

When two or more elective places are to be filled at one time under the same conditions, those candidates, not exceeding the number of such places, obtaining in the first ballot the majority required shall be elected. If the number of candidates obtaining such majority is less than the number of persons or members to be elected, there shall be additional ballots to fill the remaining places, the voting being restricted to the candidates obtaining the greatest number of votes in the previous ballot to a number not more than twice the places remaining to be filled, provided that, after the third inconclusive ballot, votes may be cast for any eligible person or member. If three such unrestricted ballots are inconclusive, the next three ballots shall be restricted to the candidates who obtained the greatest number of votes in the third of the unrestricted ballots, to a number not more than twice the places

remaining to be filled, and the following three ballots thereafter shall be unrestricted, and so on until all the places have been filled.

Rule 69* (69*)

Equally divided votes on matters other than elections

If a vote is equally divided on matters other than elections, a second vote shall be taken at a subsequent meeting which shall be held within forty-eight hours of the first vote, and it shall be expressly mentioned in the agenda that a second vote will be taken on the matter in question. If this vote also results in equality, the proposal shall be regarded as rejected.

VIII. SPECIAL PROCEDURES

Suggestion by the Secretariat

In the light of the provisions of section 3, paragraph 11, of the Annex to the 1994 Agreement relating to the approval of plans of work by the Council, it is suggested that rules 70 and 71 be replaced by a new rule reproducing the text of paragraph 11 (a). The new rule, entitled "Approval of plans of work", would read as follows:

[The Council shall approve a recommendation by the Legal and Technical Commission for approval of a plan of work unless by a two-thirds majority of its members present and voting, including a majority of members present and voting in each of the chambers of the Council, the Council decides to disapprove a plan of work. If the Council does not take a decision on a recommendation for approval of a plan of work within a prescribed period, the recommendation shall be deemed to have been approved by the Council at the end of that period. The prescribed period shall normally be sixty days unless the Council decides to provide for a longer period. If the Commission recommends the disapproval of a plan of work or does not make a recommendation, the Council may nevertheless approve the plan of work in accordance with its rules of procedure for decision-making on questions of substance.]

Rule 70 (70)

Approval of plans of work submitted by applicants other than the Enterprise

The Council shall approve plans of work in accordance with the procedures set forth in article 162, paragraph 2 (j), of the United Nations Convention on the Law of the Sea.

Rule 71 (71)

Approval of plans of work submitted by the Enterprise

The Council shall approve plans of work submitted by the Enterprise in accordance with the procedures referred to in article 162, paragraph 2 (k), of the United Nations Convention on the Law of the Sea.

IX. PARTICIPATION BY NON-MEMBERS OF THE COUNCIL

Rule 72* (72*)

Participation by members of the Authority

Any member of the Authority not represented on the Council may send a representative to attend a meeting of the Council when a request is made by such member of the Authority, or a matter particularly affecting it is under consideration. Such a representative shall be entitled to participate in the deliberations but not to vote. 18/

Rule 73 (73)

Participation by observers

[Observers referred to in rule 95 of the rules of procedure of the Assembly may designate representatives to participate, without the right to vote, in the deliberations of the Council, upon the invitation of the President, on questions affecting them or within the scope of their activities.]

Suggestion by the Secretariat

In the light of rule 82 of the rules of procedure of the Assembly on observers, the Council may wish to consider deleting the square brackets and adopting rule 73 as currently drafted; cross-reference to rule 95 should then be replaced by cross-reference to rule 82.

18/ Article 161, para. 9.

X. ELECTIONS TO THE ECONOMIC PLANNING COMMISSION AND THE LEGAL AND TECHNICAL COMMISSION

Suggestion by the Secretariat

The Council may wish to consider the inclusion of a footnote to the title of section X which would make a cross-reference to the footnote to rule 10 (b) providing that, in accordance with the Agreement relating to the implementation of Part XI of the United Nations Convention on the Law of the Sea, the functions of the Economic Planning Commission shall be performed by the Legal and Technical Commission until such time as the Council decides otherwise or until the approval of the first plan of work for exploitation.

Rule 74* (74*)

Composition

1. Each Commission shall be composed of fifteen members, elected by the Council from among the candidates nominated by the States Parties. 19/

2. However, if necessary, the Council may decide to increase the size of either Commission having due regard to economy and efficiency. 20/

3. Decisions in accordance with paragraphs 1 and 2 shall be taken by the Council by a three-fourths majority of the members present and voting, in accordance with rule 54, provided that such majority includes a majority of the members of the Council.

Suggestion by the Secretariat

The text of paragraph 3 of rule 74 is based on the provisions of paragraph 8 (c) of article 161 and paragraph 2 of article 163 of the Convention. In accordance with paragraph 2 of article 163 members of the Legal and Technical and Economic Planning Commissions shall be elected by the Council. Paragraph 8 (c) of article 161 states that decisions of the Council on questions of substance arising, inter alia, under the provisions of paragraph 2 of article 163 shall be taken by a three-fourths majority of the members present and voting provided that such majority includes a majority of the members of the Council. According to section 3, paragraph 8, of the Annex to the 1994 Agreement, the provisions of paragraph 8 (c) of article 161 shall not apply. These provisions are replaced by a procedure provided for in section 3, paragraph 5 of the Annex to the Agreement according to which decisions by voting in the Council on questions of substance shall be taken by a two-thirds majority of members present and voting, provided that such decisions are not opposed by a majority in any one of the chambers. Under rule 66 of the rules of procedure of the Council, which reflects a well-established practice, all

---

19/ Article 163, para. 2.

20/ Article 163, para. 2.

elections shall be held by secret ballot unless otherwise decided by the Council. In the light of the foregoing, paragraph 3 of rule 74 should be revised taking into account the provisions of section 3, paragraph 5, referred to above. The question, however, arises how can a majority in the chambers be determined if the Council takes a decision by secret ballot. Should it be decided that elections are to be conducted in accordance with the procedure laid down in section 3, paragraph 5, of the Annex to the Agreement, the Council may wish to consider whether the chambers should be required to vote either prior to or immediately after the adoption of a decision by the Council as a whole.

Rule 75 (75)

Equitable geographical distribution and the representation of special interests

In the election of members of the Commissions, due account shall be taken of the need for equitable geographical distribution and the representation of special interests. 21/

Note by the Secretariat

The text of rule 75, which is based upon the provisions of paragraph 4 of article 163 of the Convention, was not provisionally adopted by the Preparatory Commission. The 1994 Agreement does not contain any provisions which would require a revision of this rule. The Council may wish to consider whether this rule should be retained as currently drafted.

Rule 76* (76*)

Nominations

No State Party may nominate more than one candidate for the same Commission. No person shall be elected to serve on more than one Commission. 22/

Rule 77* (77*)

Term of office

1. Members of the Commissions shall hold office for a term of five years. They shall be eligible for re-election for a further term. 23/

21/ Article 163, para. 4.

22/ Article 163, para. 5.

23/ Article 163, para. 6.

2. A member of the Commission shall begin his term of office on the date of election.

3. In the event of the death, incapacity or resignation of a member of a Commission prior to the expiration of his term of office, the Council shall elect for the remainder of the term, a member from the same geographical region or area of interest. 24/

Rule 78* (78*)

General qualifications for membership of a Commission

Members of a Commission shall have appropriate qualifications in the area of competence of that Commission. States Parties shall nominate candidates of the highest standards of competence and integrity with qualifications in relevant fields so as to ensure the effective exercise of the functions of the Commissions. 25/

Rule 79* (79*)

Qualifications for membership of the Economic Planning Commission

Members of the Economic Planning Commission shall have appropriate qualifications, such as those relevant to mining, management of mineral resources activities, international trade or international economics. The Council shall endeavour to ensure that the membership of the Commission reflects all appropriate qualifications. The Commission shall include at least two members from developing States whose exports of the categories of minerals to be derived from the Area have a substantial bearing upon their economies. 26/

Rule 80* (80*)

Qualifications for membership of the Legal and Technical Commission

Members of the Legal and Technical Commission shall have appropriate qualifications, such as those relevant to exploration for and exploitation and processing of mineral resources, oceanology, protection of the marine environment, or economic or legal matters relating to ocean mining and related

---

24/ An amendment was introduced to this rule in document LOS/PCN/WP.33, suggesting the addition of the words "in accordance with rule 75" at the end of the second paragraph. It was noted that a decision on the amendment would depend on the final text of rule 75.

25/ Article 163, para. 3.

26/ Article 164, para. 1.

fields of expertise. The Council shall endeavour to ensure that the membership of the Commission reflects all appropriate qualifications. 27/

XI. FINANCE COMMITTEE

Rule 81 (81)

Finance Committee

1. The Council shall appoint a finance committee consisting of fifteen members reflecting its own composition.

2. The Finance Committee shall:

(a) Elaborate the draft financial rules, regulations and procedures pursuant to article 162, paragraph 2 (y), of the United Nations Convention on the Law of the Sea;

(b) Advise the Council on the proposed annual budget prepared by the Secretary-General;

(c) Advise the Council on the sharing and distribution of financial benefits referred to in article 162, paragraph 2 (o) (i);

(d) Advise the Council on the exercise of the borrowing power of the Authority;

(e) Advise the Council on all other financial aspects of its work.

Suggestion by the Secretariat

In the light of the provisions of section 9, paragraph 3, of the Annex to the 1994 Agreement, providing that members of the Finance Committee shall be elected by the Assembly, section XI and rule 81 should be deleted from the rules of procedure of the Council.

XII. SUBSIDIARY ORGANS OF THE COUNCIL

Rule 82* (82)

Establishment

The Council shall establish, as appropriate, and with due regard to economy and efficiency, subsidiary organs as it finds necessary for the exercise of its functions in accordance with Part XI of the United Nations Convention on the Law of the Sea.

27/ Article 165, para. 1.

Rule 83 (83)

Composition

In the composition of subsidiary organs, emphasis shall be placed on the need for members qualified and competent in relevant technical matters dealt with by those organs, provided that due account shall be taken of the principle of equitable geographical distribution and of special interests.

Note by the Secretariat

Rule 83 was not provisionally adopted by the Preparatory Commission. The 1994 Agreement does not contain provisions affecting the text of this rule. The Council may wish to consider whether this rule should be retained as currently drafted.

Rule 84* (84)

Rules of procedure

These rules of procedure of the Council apply, mutatis mutandis, to the proceedings of subsidiary organs unless the Council decides otherwise.

XIII. LANGUAGES

Rule 85* (85)

Languages

Arabic, Chinese, English, French, Russian and Spanish shall be the languages of the Council.

Rule 86* (86)

Interpretation

1. Speeches made in a language of the Council shall be interpreted into the other such languages.

2. Any representative may make a speech in a language other than the language of the Council. In that case, he shall himself provide for interpretation into one of the languages of the Council. Interpretation into the other languages of the Council by the interpreters of the Secretariat may be based on the interpretation given in the first such language.

Rule 87* (87)

Languages of resolutions and documents

All resolutions and other documents shall be published in the languages of the Council.

XIV. RECORDS

Rule 88* (88)

Records and sound recordings of meetings

1. Summary records of the meetings of the Council shall be kept in the languages of the Council. As a general rule, they shall be circulated as soon as possible, simultaneously in all the languages of the Council, to all representatives, who shall inform the Secretariat within five working days after the circulation of the summary record of any changes they wish to have made.

2. The Secretariat shall make sound recordings of the meetings of the Council and of its subsidiary organs when they so decide.

Rule 89* (89*)

Decisions

Decisions adopted by the Council shall be communicated by the Secretary-General to the members of the Authority within fifteen days after the close of the session.

Suggestion by the Secretariat

The title of rule 89 should be amended to read "Communication of decisions".

XV. PUBLIC AND PRIVATE MEETINGS OF THE COUNCIL AND ITS SUBSIDIARY ORGANS

Rule 90* (90)

Public and private meetings

1. The meetings of the Council shall be held in public unless otherwise decided.

2. As a general rule, meetings of subsidiary organs shall be held in private.

3. All decisions of the Council taken at a private meeting shall be announced at an early public meeting of the Council. At the close of each private meeting

of a subsidiary organ, the Chairman may issue a communiqué through the Secretary-General.

Rule 91

Private meetings

[merged with rule 90, as paragraphs 2 and 3]

XVI. AMENDMENTS

Rule 92 (92)

Method of amendment

These rules of procedure may be amended by a decision of the Council, taken by [...] of the members present and voting.

Suggestion by the Secretariat

It appears that adoption of amendments to the rules of procedure of the Council should be considered a procedural matter. The rules of procedure of the Assembly provide for a simple majority in this regard. Therefore, it is suggested that the Council should take decisions on amendments by a simple majority.